



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

DEC 07 2018

Robin Long

Hampton Bays, New York 11946

RE: MUR 6985  
Lee Zeldin *et al.*

Dear Ms. Long:

This is in reference to the complaint you filed with the Federal Election Commission on November 19, 2015, concerning Lee Zeldin, Zeldin for Senate, Zeldin for Congress, and numerous state and local political committees. Based on that complaint, on March 23, 2017, the Commission found that there was reason to believe Lee Zeldin and Zeldin for Senate violated 52 U.S.C. § 30125(e), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with political contributions to state and local political committees. However, after considering the circumstances of this matter, the Commission determined to take no further action as to Lee Zeldin and Zeldin for Senate, and closed the file in this matter on November 30, 2018. A copy of the dispositive General Counsel's Report is enclosed.

Earlier, the Commission determined to find no reason to believe that:

- Zeldin for Congress violated 52 U.S.C. §§ 30104(a) or 30125(e) in connection with alleged reciprocal contributions and journal advertisements.
- Lee Zeldin or Zeldin for Senate violated 52 U.S.C. § 30125(e) in connection with alleged reciprocal contributions and journal advertisements.
- Zeldin for Senate violated 52 U.S.C. §§ 30103 and 30104 by failing to register and report as a federal political committee.

The Commission also found no reason to believe that the following entities violated the Act: Islip Town Conservative Executive Committee, Suffolk Conservative Chairman's Club, Friends of Senft, New York State Conservative Party, Smithtown Conservatives for Victory, Smithtown Women's Republican Club, Smithtown Republican Victory Fund, Babylon Conservative Committee, Riverhead Republican Committee, Committee to Elect a Republican Majority, Queens County Conservative Party, or New York Republican State Committee.

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Several Factual and Legal Analyses, which more fully explain the Commission's decisions to find no reason to believe, are enclosed.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact me at (202) 694-1650.

Sincerely,



Elena Paoli  
Attorney

Enclosures  
Second General Counsel's Report  
Factual and Legal Analyses

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3  
4 In the Matter of )  
5 )  
6 Zeldin for Senate ) MUR 6985  
7 Lee M. Zeldin )  
8

9 **SECOND GENERAL COUNSEL'S REPORT**

10  
11 **I. ACTIONS RECOMMENDED**

12 We recommend that the Commission: (1) take no further action as to Zeldin for Senate  
13 ("State Committee") and Lee M. Zeldin (collectively "Respondents"); (2) approve the  
14 appropriate letters; and (3) close the file.

15 **II. BACKGROUND**

16 On March 23, 2017, the Commission found reason to believe that former New York state  
17 senator and federal candidate Lee Zeldin and his state senate committee violated 52 U.S.C.  
18 § 30125(e)(1)(B) by spending federally impermissible funds to make state and local political  
19 contributions and by accepting corporate contributions after Zeldin became a federal candidate.<sup>1</sup>  
20 The Commission authorized pre-probable cause conciliation  
21

22 The Commission made these findings based on the State Committee's disclosure reports,  
23 which revealed that after October 7, 2013, the date Zeldin declared his federal candidacy, the

<sup>1</sup> See Certification, MUR 6985 (Mar. 23, 2017) and Factual & Legal Analysis ("F&LA").

1 State Committee received \$1,000 from corporate entities and contributed or transferred \$99,655  
2 to 39 state and local political committees through December 23, 2015, the date the State  
3 Committee spent its last funds.<sup>3</sup>

4 In response to the Commission's findings, Respondents have provided detailed financial  
5 information, and an affidavit from the State Committee's treasurer containing new information,  
6 in support of its position that the State Committee used permissible funds to make the state and  
7 local political contributions and transfers at issue.

8 Based on our close examination of this information, we recommend that the Commission  
9 take no further action in this matter and close the file.

10 **III. ANALYSIS**

11 Pursuant to 52 U.S.C. § 30125(e)(1)(B), the Act prohibits federal candidates, federal  
12 officeholders, their agents, and entities established, financed, maintained, or controlled  
13 ("EFMC'd") by federal candidates or officeholders from soliciting, receiving, directing,  
14 transferring, or spending funds in connection with any election other than an election for Federal  
15 office unless the funds are in amounts and from sources permitted by the Act.

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<sup>3</sup> F&LA at 3.

**A. State Committee Contributions and Transfers After Zeldin Became a Federal Candidate**

The State Committee — an entity subject to 52 U.S.C. § 30125(e)(1)(B) — donated to state and local candidates and parties while Zeldin was a federal candidate and subsequently while he was a federal officeholder, thus transferring, spending, or disbursing funds in connection with a nonfederal election.<sup>5</sup> Therefore, any funds the State Committee transferred, spent, or disbursed after Zeldin became a federal candidate or officeholder were required to be federally permissible.<sup>6</sup>

Notwithstanding the prohibitions of section 30125(e), the Commission has allowed a state officeholder and federal candidate to donate federally permissible funds in a state account to other state and local political committees if the state committee uses a “reasonable accounting method” to separate permissible from impermissible funds, and it makes the contributions with the permissible funds.<sup>7</sup>

The Commission’s reason-to-believe finding was premised on the State Committee’s disclosure reports showing that at least 39% of its funds during 2013 (\$99,725) consisted of demonstrably impermissible federal funds, and the lack of information that the State Committee used a reasonable accounting method and thus only used federally permissible funds to make the

<sup>5</sup> F&LA at 4; *see* Advisory Op. 2009-26 (Coulson) at 5; Advisory Op. 2007-01 (McCaskill) at 3; F&LA at 9, MUR 6601 (Oelrich).

<sup>6</sup> F&LA at 4. A concurrent state candidate is permitted to raise and spend non-federal funds in certain circumstances. *See* 52 U.S.C. § 30125(e)(2).

<sup>7</sup> *Id.* at 4-5; Advisory Op. 2007-26 (Schock) at 3-5; Advisory Op. 2006-38 (Casey) at 4; *see also* 11 C.F.R. § 110.3(c)(4) (Committees may transfer funds in certain situations when they can demonstrate that their “cash on hand contains sufficient funds at the time of the transfer that comply with the limitations and prohibitions of the Act to cover the amount transferred,” cited as authority for AOs 2007-26 and 2006-38).

1 contributions and transfers.<sup>8</sup> In response, Respondents assert that, under a reasonable accounting  
2 method, the State Committee had \$154,829.54 in permissible funds as of October 7, 2013, the  
3 date Zeldin became a federal candidate, which was more than the amount the State  
4 Committee spent after that date on donations and transfers to state and local political  
5 committees.<sup>9</sup>

6 According to Respondents, when Zeldin became a federal candidate, the State  
7 Committee, following its accountant's recommendations, used "General Accounting Principles,  
8 such as using three (3) accounts – (1) Primary; (2) General; and, (3) Non-Permissible."<sup>10</sup> In  
9 support, the State Committee provided a spreadsheet its treasurer prepared. That spreadsheet  
10 was based on the State Committee's disclosure reports, and it designates each contribution  
11 received during 2013 as federally permissible or not based on source and amount.<sup>11</sup> The  
12 spreadsheet divides the State Committee's contributions received up to October 7, 2013, into  
13 three groups: "Primary 2014" (contributions up to \$2,600 from permissible sources); "General  
14 2014" (contributions between \$2,600 and \$5,200 from permissible sources);<sup>12</sup> and "Non

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<sup>8</sup> F&LA at 3-5, n.14.

<sup>9</sup> See email from James E. Tyrrell III, Counsel, to Elena Paoli, OGC (Mar. 15, 2018) (avail. in VBM); Affidavit of Nancy Marks, State Committee treasurer, at ¶ 5 (Aug. 31, 2018) (attached to this Report) ("Marks Aff."); Resp. at 3-4 (Oct. 13, 2017). Marks also has been the treasurer for Zeldin's federal committee, Zeldin for Congress, since its initial registration with the Commission. See Zeldin for Congress, Statement of Organization (dated by treasurer Oct. 7, 2013, but not filed with Commission until Nov. 26, 2013).

<sup>10</sup> Marks Aff. ¶ 6.

<sup>11</sup> See Spreadsheet (attach. to Mar. 15, 2018 email from James E. Tyrrell III, Counsel, to Elena Paoli, OGC) (avail in VBM). The Spreadsheet also categorizes contributions received by the State Committee during the 2010 and 2012 election cycles. When we reviewed the State Committee's contributions in connection with the Commission's consideration of the reason-to-believe recommendation, we used a shorter timeline of 60 days back, not all of 2013 up to Zeldin's candidacy declaration. See email from Elena Paoli to Commissioners, Jan. 23, 2017 (containing analysis of State Committee's contributions).

<sup>12</sup> This range is based on the \$2,600 per-election federal contribution limit during the 2014 cycle and Zeldin's participation in the primary and general elections. See 52 U.S.C. § 30116(a)(1)(A).

Perm[issible].”<sup>13</sup> As of October 7, 2013, the amounts in the three groups were \$250,635,<sup>14</sup>  
\$13,050, and \$93,590, respectively.<sup>15</sup> In its calculations, Respondents deemed certain  
contributions from LLCs, PCs, PLLCs, and LLPs as “permissible,” based on the State  
Committee’s practice, which dated to 2009, of “communicat[ing] with a representative from the  
contributing entity to determine whether it filed its taxes as a corporation or partnership.”<sup>16</sup> The  
Committee assigned these contributions to one of the three groups based on the entities’ answers  
to this question.<sup>17</sup>

Subtracting disbursements the Committee had made, the account balances as of  
October 7, 2013, shown on the spreadsheet are \$141,779.64 in “Primary 2014,” \$13,050.00 in  
“General 2014,” and \$0.00 in “Non Perm[issible],” for a total of \$154,829.64 in federally

<sup>13</sup> The non-permissible group includes contributions from federally impermissible sources and amounts above \$5,200 from permissible sources.

<sup>14</sup> This figure includes \$100,212.17 as a balance forward on January 1, 2013. For 2012, the State Committee’s Spreadsheet shows a total of \$510,640.11 in “Primary” funds received during that year, \$51,400 “General,” and \$294,570.75 “Non Perm[issible].”

<sup>15</sup> Treasurer Marks avers that certain contributors listed in the “corporate contributions” section of the State Committee’s disclosure reports were state and local political committees that are allowed under the Act to contribute up to \$1,000 from permissible funds to a federal candidate in a calendar year. Marks Aff. ¶ 8. The committees at issue are not registered with the Commission. The \$1,000 threshold Marks appears to be referring to relates to the definition of a political committee under the Act. See 52 U.S.C. § 30101(4)(A); see also MUR 6170 (Tuscola Democratic Party) (contributions by group totaling less than \$1,000 did not require group to register as federal political committee). Marks attests that any amount up to \$1,000 the State Committee accepted and placed in the permissible account were from permissible funds, and if committees donated more than \$1,000, the remainder was placed in the “impermissible” group. Marks Aff. ¶ 8. Thus, these self-described corporate contributions totaling \$9,200 appear in the “Primary 2014” account. Our review of those unregistered political committees revealed that one of the fourteen contributors appears to have had only corporate funds available, but because the State Committee appears to have had substantially more federally permissible funds than it contributed to state and local political committees, deducting that \$9,200 from the “permissible” group does not change our recommendation.

<sup>16</sup> Marks Aff. ¶ 4. Prior to Zeldin’s federal candidacy, the State Committee organized its receipts into distinct categories based on the requirements of New York’s campaign finance reports, which separate contributions into three schedules: Individual/Partnerships, Corporate, and Other Monetary. *Id.*; see, e.g., Zeldin for Senate 2014 January Report (showing three separate contribution schedules).

<sup>17</sup> Marks Aff. ¶ 4.

1 permissible funds at the time Zeldin became a federal candidate.<sup>18</sup> From that date forward, the  
2 State Committee shows nearly all of its spending, and all of the contributions to state and local  
3 political committees, coming from the Primary and General accounts.<sup>19</sup>

4 Thus, the State Committee argues that it did not violate 52 U.S.C. § 30125(e) because it  
5 employed a reasonable accounting method to show that it had sufficient federally compliant  
6 funds and made state and local political contributions from "particular accounts" after Zeldin  
7 became a federal candidate.<sup>20</sup> Although the State Committee did not employ the particular  
8 methods identified in Advisory Opinions, "last in, first transferred"<sup>21</sup> or "first in, first out,"<sup>22</sup> the  
9 Commission determined that a state committee of a federal candidate was not precluded from  
10 using a different reasonable accounting method that employs generally accepted accounting  
11 principles when identifying remaining donations in its campaign account and determining which  
12 funds are federally permissible.<sup>23</sup>

<sup>18</sup> The State Committee calculated these figures as the total contributions received from January 1 through October 7, 2013, minus disbursements, most of which were subtracted from the Non-Permissible account until that account was zeroed out; the remainder were subtracted from the Primary account. (We note that the total of permissible funds differs by \$0.10 from the amount of permissible funds Marks cited in her affidavit. *See id.* ¶ 5.) But even if the State Committee had subtracted disbursements *pro rata* from all three accounts, it still would have had enough "permissible" funds to make the \$99,655 in donations to state and local committees.

<sup>19</sup> *See Marks Aff.* ¶ 6 ("[W]hen a check was issued, it was issued from a particular account."). The spreadsheet shows the State Committee's receipt and disbursement of \$1,000 in corporate contributions in early 2014. *See id.* ("When a check arrived, the check was designated to a particular account...").

<sup>20</sup> *See Marks Aff.* ¶ 5.

<sup>21</sup> *See AO 2007-26 (Schock); 11 C.F.R. § 110.3(c)(4).*

<sup>22</sup> *See AO 2006-38 (Casey).*

<sup>23</sup> *See AO 2007-26 (Schock) at 3.*



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<sup>26</sup> See F&LA at 12, MUR 7246 (Carter) (Although it was unclear whether Carter's state committee used a reasonable accounting method to identify federally permissible funds, in light of the information indicating that the state committee's accounts appeared to contain sufficient permissible funds, the Commission dismissed the allegations of violations of 52 U.S.C. § 30125(e) by spending soft money after Carter became a federal candidate.).

**B. State Committee Receipt of Contributions after Zeldin Became a Federal Candidate**

The Commission also found reason to believe that the State Committee violated 52 U.S.C. § 30125(e)(1)(B) by accepting \$1,000 in corporate contributions after Zeldin became a federal candidate because he was no longer a candidate for state office.<sup>27</sup> In response, Respondents argue that Zeldin was a state candidate concurrently with his federal candidacy when the State Committee accepted \$1,000 in corporate contributions.<sup>28</sup> Respondents assert that Zeldin intended to run for re-election to the state senate if he lost the June 24, 2014, federal primary,<sup>29</sup> and thus, the Committee's acceptance of corporate contributions in January 2014 did not violate the Act.<sup>30</sup> They identify activities that the State Committee continued to undertake in the first half of 2014, such as maintaining a state senate campaign cell phone, to show that Zeldin was still a state candidate.<sup>31</sup> Given the small amount at issue and our recommendation to take no further action regarding the main 30125(e) reason-to-believe finding discussed above, we recommend taking no further action as to the finding regarding acceptance of corporate contributions as well.

**IV. RECOMMENDATIONS**

1. Take no further action in this matter;

<sup>27</sup> F&LA at 3-5. The Act allows concurrent state and federal candidates to raise state-only permissible funds if in connection with their state election. 52 U.S.C. § 30125(e)(2).

<sup>28</sup> See Resp. at 1-3 (Oct. 13, 2017).

<sup>29</sup> The primary election for the New York State Senate took place on September 9, 2014, with the filing deadline on July 11, 2014. See 2014 Election Results, New York State Board of Elections, <https://www.elections.ny.gov/2014ElectionResults.html>; see Political Calendar, New York State Board of Elections, <http://www.elections.ny.gov/politicalcalendar.html>.

<sup>30</sup> See Resp. at 1-3 (Oct. 13, 2017).

<sup>31</sup> See *id.* at 2. Respondents have not provided any evidence that Zeldin ever filed for the state primary election.

2. Approve the appropriate letters;

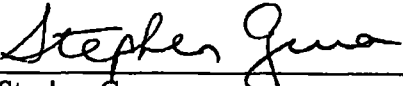
3. Close the file.


Lisa J. Stevenson  
Acting General Counsel


Kathleen M. Guith  
Associate General Counsel

9.4.18

Date

  
Stephen Gura  
Deputy Associate General Counsel

  
Mark Allen  
Assistant General Counsel

  
Elena Paoli  
Attorney

Attachment  
Nancy Marks Affidavit

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Lee Zeldin  
Zeldin for Senate

**MUR 6975**

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Lee Zeldin and Zeldin for Senate.

**II. FACTUAL AND LEGAL ANALYSIS**

This matter relates to U.S. Representative Lee Zeldin, a former New York state senator, and transactions involving his federal and state political committees after Zeldin announced his federal candidacy in October 2013. The Complaint alleges that Zeldin for Senate ("State Committee") raised and spent funds outside of the limits and source prohibitions of the Federal Election Campaign Act of 1971, as amended (the "Act"), including improper transfers to Zeldin for Congress ("Federal Committee") via reciprocal contributions from state and local political committees and candidates, and coordinated advertisements. The Complaint also alleges that the Federal Committee accepted illegal contributions from the State Committee's transfer of nonfederal funds, and that the Federal Committee failed to report those contributions. Finally, the Complaint alleges that the State Committee may have failed to register and report with the Commission as a federal political committee based on its spending and other activities. In a joint response, Lee Zeldin, the State Committee, and the Federal Committee ("Zeldin Response") deny that they improperly caused State Committee funds to be transferred to the Federal Committee or coordinated the ads.

**A. Factual Background**

In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7, 2013, Zeldin announced that he would seek the U.S. House seat in New York's First Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on October 21, 2013.<sup>1</sup>

The State Committee remained active while Zeldin completed his state senate term and campaigned for the U.S. House.<sup>2</sup> New York State allows state candidates to receive contributions that would be impermissible under the Act; for example, a corporation can contribute \$5,000 to a candidate per year.<sup>3</sup> During the 2012 and 2014 election cycles, the contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300 for the general election.<sup>4</sup> Zeldin's State Committee accepted such contributions.<sup>5</sup> In addition, political committees in New York cannot terminate if funds remain in their accounts.<sup>6</sup> Under New York law, state officeholders who wish to terminate their committees may spend down their accounts through donations to other political committees.<sup>7</sup>

<sup>1</sup> The Federal Committee's 2013 Year-End Report shows that Zeldin had accepted more than \$5,000 in contributions by October 7, 2013.

<sup>2</sup> The State Committee terminated on April 28, 2016. *See* New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>3</sup> *See* N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

<sup>4</sup> *See id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. *See* N.Y. ELEC. LAW § 14-114(b).

<sup>5</sup> *See, e.g.,* State Committee 2014 January Periodic Report, Schedules A and B.

<sup>6</sup> *See* N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>7</sup> *See* New York State Board of Elections Campaign Finance Handbook at 46 (2014).

**B. There is Reason to Believe Zeldin and the State Committee Raised and Spent Nonfederal Funds After Zeldin Became a Federal Candidate**

The Complaint alleges that the State Committee raised and spent funds outside the federal limits and source prohibitions after Zeldin became a federal candidate on October 7, 2013.<sup>8</sup> The State Committee's disclosure reports reveal that after that date, it received \$1,000 from corporate entities and contributed or transferred \$99,655 to 39 state and local political committees through December 23, 2015, the date the State Committee spent its last funds.<sup>9</sup>

Pursuant to 52 U.S.C. § 30125(e)(1)(B), the Act prohibits federal candidates, federal officeholders, their agents, and entities established, financed, maintained, or controlled ("EFMC'd") by federal candidates or officeholders from soliciting, receiving, directing, transferring, or spending funds in connection with any election other than an election for Federal office unless the funds are in amounts and from sources permitted by the Act.<sup>10</sup> Further, Commission regulations prohibit the transfer of funds or assets from a candidate's campaign committee for a nonfederal election to his or her principal campaign committee.<sup>11</sup>

<sup>8</sup> Compl. at 3, 5, 7.

<sup>9</sup> The Complaint generally alleges that the State Committee accepted nonfederal funds after Zeldin became a federal candidate. Compl. at 1-2. In addition, the Complaint only identifies State Committee contributions to state and local political committees through October 28, 2014. *See* Compl. Att. A. The State Committee's publicly available reports provide more specific information about contributions received, and those reports revealed that the State Committee made state and local political contributions until late 2015. *See* State Committee 2014 and 2015 January and July Periodic Reports. When Zeldin became a federal candidate, the State Committee had at least \$130,379 cash on hand. *See* State Committee 2014 January Periodic Report (showing range of cash on hand between \$205,580 and \$130,379 in the July 2013-December 2013 reporting period). Roughly 48% of the State Committee's available funds as of July 1, 2013, were spent on state and local political contributions (\$99,655 divided by \$206,000 = .4837 x 100 = 48.37%).

<sup>10</sup> 52 U.S.C. § 30125(e)(1)(B); 11 C.F.R. § 300.62. The law does not require that all four factors be present in order to support a finding of reason to believe that a violation occurred. Any one of the four factors will suffice if it provides the basis for four or more Commissioners to find reason to believe, even though some Commissioners may believe that other factors are also present.

<sup>11</sup> 11 C.F.R. § 110.3(d).

1 Here, the State Committee—which is an entity subject to 52 U.S.C. § 30125(e)(1)(B) —  
2 donated to state and local candidates and parties, while Zeldin was a federal candidate  
3 (beginning in October 2013) and subsequently while he was a federal officeholder,<sup>12</sup> thus  
4 transferring, spending, or disbursing funds in connection with a nonfederal election. Therefore,  
5 any funds the State Committee transferred, spent, or disbursed after Zeldin became a federal  
6 candidate or officeholder were required to be federally permissible.<sup>13</sup>

7 The State Committee's disclosure reports reveal that it accepted contributions from  
8 corporations and from individuals in amounts greater than permitted by the Act.<sup>14</sup> Thus, some  
9 portion of the \$99,655 disbursed to state and local political committees after Zeldin became a  
10 federal candidate and officeholder were funds that did not comply with the Act's amount  
11 limitations and source prohibitions.

12 Notwithstanding the prohibitions of section 30125(e), the Commission has allowed a  
13 state officeholder and federal candidate to donate federally permissible funds in a state account  
14 to other state and local political committees if the state committee uses a "reasonable accounting

<sup>12</sup> See Advisory Op. 2009-26 (Coulson) at 5 ("AO 2009-26"); Advisory Op. 2007-01 (McCaskill) at 3 ("AO 2007-01"); Factual & Legal Analysis at 9, MUR 6601 (Oelrich).

<sup>13</sup> Although the Act prohibits a federal candidate from spending an EFMC'd entity's funds in connection with nonfederal elections, the Act allows a simultaneous federal and state candidate to spend nonfederal funds "solely in connection with such election for State or local office." See 52 U.S.C. § 30125(e)(2). Thus, a simultaneous state candidate and federal candidate may spend otherwise impermissible funds in connection with his or her own state election. See Advisory Op. 2005-02 (Corzine) at 2, 4; Advisory Op. 2003-32 (Tenenbaum) at 5. Zeldin, however, did not appear to be a state candidate at the time the State Committee made the contributions. See note 2. Thus, he cannot take advantage of this state candidate exception.

<sup>14</sup> See, e.g., State Committee's July 2013 and January 2014 reports showing that the State Committee received \$255,219 in total donations. Of that, approximately \$96,929 were facially permissible individual donations, and another \$14,300 came from state and local political committees with adequate permissible funds, for a total of \$111,229. The State Committee also received \$77,675 in corporate and labor union donations and \$10,700 in facially excessive individual donations, for a total of \$88,375. An additional \$11,350 came from state and local committees without adequate permissible funds; thus, the total of impermissible funds is \$99,725. Also, \$29,715 was donated by LLCs, PCs, PLLCs, and LLPs, for which information about funds used is not available. And we could not locate information regarding another \$14,550 in donations. Thus, at least 39% of the State Committee's available funds in this time period consisted of demonstrably impermissible federal funds (\$99,725 divided by \$255,219 = .3907 x 100 = 39%).

1 method" to separate permissible from impermissible funds, and it makes the contributions with  
2 the permissible funds.<sup>15</sup> We do not have information that the State Committee used such an  
3 accounting method and thus only used federally permissible funds to make the contributions.

4 The State Committee also accepted \$3,150 in contributions after Zeldin became a federal  
5 candidate and was no longer a state candidate.<sup>16</sup> Of that, \$1,000 appears to be from corporations.  
6 Therefore, Zeldin and the State Committee appear to have accepted \$1,000 in impermissible  
7 contributions.<sup>17</sup>

8 Thus, the Commission finds reason to believe that Zeldin and the State Committee  
9 violated 52 U.S.C. § 30125(e)(1)(B) by receiving and spending funds in connection with a  
10 nonfederal election in amounts and from sources prohibited by the Act.

11 **C. There is no Reason to Believe Respondents Illegally Transferred Funds to the**  
12 **Federal Committee Through Reciprocal Contributions**

13  
14 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
15 when the State Committee made a contribution to a state or local political organization that was  
16 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>18</sup>  
17 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal

<sup>15</sup> Advisory Op. 2007-26 (Schock) at 3-5; Advisory Op. 2006-38 (Casey) at 4.

<sup>16</sup> As stated above, the "state candidate" exception to 52 U.S.C. § 30125(e)(1)(B) that permits concurrent state and federal candidates to receive and spend nonfederal funds "solely in connection with *such* election for State or local office," does not apply by its terms to a non-state candidate. *See* 52 U.S.C. § 30125(e)(2); 11 C.F.R. § 300.63 (emphasis added).

<sup>17</sup> *Cf.* Factual & Legal Analysis at 12, MUR 6820 (Carter) (Based on prosecutorial discretion, Commission dismissed allegation that Carter's state committee accepted \$3,250 in corporate contributions after Carter became a federal candidate; Carter was a concurrent state candidate at the time, which would have necessitated investigating whether contributions were in connection with his state election.).

<sup>18</sup> *See* Compl. at 6-7 and Attachs. A, B.

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1 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
2 Committee.<sup>19</sup>

3 The Zeldin Respondents argue that none of the State Committee contributions were  
4 earmarked or contained any “designations, instructions and encumbrances,” and that the State  
5 Committee made no other express or implied instruction to the recipient committees.<sup>20</sup>

6 The Commission has considered arrangements to transfer a state committee’s funds into a  
7 federal committee’s account through intermediaries. In MUR 5278, candidate Gingrey admitted  
8 in a state proceeding to having arranged “reciprocal contributions” for the purpose of funneling  
9 state funds into his federal account.<sup>21</sup> Similarly, in an advisory opinion, the Commission found  
10 impermissible the requestor’s plan to use surplus state funds to make indirect transfers to the  
11 requestor’s federal committee.<sup>22</sup>

12 In contrast, the Zeldin Respondents deny that such indirect transfers occurred, and a  
13 review of the available information reveals that most of the alleged reciprocal contributions do  
14 not match up closely in amounts or time.<sup>23</sup> For example, in the first transaction identified in the  
15 Complaint, the State Committee contributed \$500 to the Committee to Elect a Republican  
16 Majority (“CERM”) on October 25, 2013, and CERM contributed \$1,000 to the Federal

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<sup>19</sup> Compl. at 3.

<sup>20</sup> Zeldin Resp. at 5.

<sup>21</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. *See id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

<sup>22</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make “roughly equivalent” contributions to Colantuono’s federal committee).

<sup>23</sup> In fact, the Commission has information indicating that two organizations received no donations from the State Committee.

1 Committee on March 20, 2014, about five months later.<sup>24</sup> Similarly, the second such identified  
2 transaction involves a \$100 transfer from the State Committee to the Smithtown Women's  
3 Republican Club in early December 2013 and a \$500 contribution from that group to the Federal  
4 Committee over seven months later.<sup>25</sup> Further, the Federal Committee, in response to requests  
5 sent by the Reports Analysis Division regarding contributions from unregistered organizations,  
6 including state and local political committees, has responded that the contributions were made  
7 using permissible funds.

8 Thus, although the State Committee donated funds to state and local political  
9 organizations that contributed to the Federal Committee, there does not appear to be a sufficient  
10 factual nexus between the transactions to conclude that the State Committee was impermissibly  
11 funneling its funds to the Federal Committee. Thus, the Commission finds no reason to believe  
12 the State Committee improperly transferred funds to the Federal Committee through reciprocal  
13 contributions.

14 **D. Journal Advertisements**

15 The Complaint alleges that the State Committee paid \$3,765 for "journal" advertisements  
16 featuring Zeldin from January through October 2014 that constitute coordinated communications  
17 and prohibited in-kind transfers to the Federal Committee.<sup>26</sup>

18 The Zeldin Respondents state that the ads at issue are sponsored pages in booklets and  
19 journals printed by various local civic, religious, and charitable organizations that typically honor  
20 individuals or groups for their achievements.<sup>27</sup> They assert that the ads were placed solely in

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<sup>24</sup> See Compl. at 6.

<sup>25</sup> *Id.*

<sup>26</sup> Compl. at 2-4.

<sup>27</sup> Zeldin Resp. at 2.

1 Zeldin's capacity as state senator and contain no electoral advocacy, and they deny that the ads  
2 constitute coordinated communications.<sup>28</sup> The Zeldin Respondents supplied examples of such  
3 ads; they contain a headline reading "Senator Lee M. Zeldin," Zeldin's photograph, his  
4 congratulations or "best wishes," and his contact information. They make no reference to  
5 Zeldin's status as a federal candidate and do not describe him in any manner.<sup>29</sup> One of the ads is  
6 reproduced below.

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<sup>28</sup> *Id.*

<sup>29</sup> *See id.* at 7-11.

## Senator Lee M. Zeldin



Congratulations to the  
James V. Kavanaugh Columbiettes  
and  
Honorees  
Rose Marie Oliveri, Barabara Kruk, Bill  
Guiducci, and Lynda Zachon  
~ Senator Lee Zeldin

Third Senate District  
District Office:  
4155 Veterans Memorial Hwy.  
Suite 5  
Ronkonkoma, NY 11779  
(631) 585-0608

Email: [Zeldin@nysenate.gov](mailto:Zeldin@nysenate.gov)  
Website: [www.zeldin.nysenate.gov](http://www.zeldin.nysenate.gov)

1  
2 Under Commission regulations, a communication is coordinated with a candidate, an  
3 authorized committee, or agent thereof if it meets a three-pronged test: (1) payment for the  
4 communication by a third party; (2) satisfaction of one of the "content" standards;<sup>30</sup> and (3)  
5 satisfaction of one of the "conduct" standards.<sup>31</sup>

<sup>30</sup> 11 C.F.R. § 109.21(c)(1)-(5).

<sup>31</sup> 11 C.F.R. § 109.21(d)(1)-(6).

1       The ads here do not appear to be coordinated communications because they do not satisfy  
2       the payment prong. The Commission has determined that an advertisement paid for by a federal  
3       candidate's state committee does not constitute payment by a third party.<sup>32</sup> Therefore, the  
4       Commission finds no reason to believe that Zeldin or the State Committee violated the Act by  
5       making or accepting prohibited contributions in the form of coordinated communications.

6       Also applicable here is the Act's prohibition on entities subject to section 30125(e), such  
7       as Zeldin's State Committee, spending funds in connection with a federal election, including  
8       funds for "federal election activity" ("FEA"), unless the funds are subject to the limitations,  
9       prohibitions, and reporting requirements of the Act.<sup>33</sup> Section 30125(e) would thus prohibit the  
10      disbursements for the journal ads by the State Committee if they qualify as FEA.<sup>34</sup> The Act  
11      defines FEA to include public communications that refer to a clearly identified candidate for  
12      federal office and that promote, attack, support, or oppose ("PASO") a candidate for that office,  
13      regardless of whether the communication expressly advocates a vote for or against a candidate.<sup>35</sup>

14      The journal ads, which ran after Zeldin declared his candidacy, clearly identify Zeldin by  
15      name and photograph.<sup>36</sup> Even if they are public communications,<sup>37</sup> they do not fall within the  
16      prohibitions of section 30125(e) because they do not "PASO" Zeldin.<sup>38</sup> Merely identifying a

<sup>32</sup> See AO 2009-26 at 10; AO 2007-01 at 5; F&LA, MUR 6601 (Oelrich for Congress) at 9 n.10.

<sup>33</sup> See 52 U.S.C. § 30125(e)(1)(A).

<sup>34</sup> See *id.*

<sup>35</sup> 52 U.S.C. § 30101(20)(A)(iii); 11 C.F.R. § 100.24(b)(3).

<sup>36</sup> See 52 U.S.C. § 30101(18); 11 C.F.R. § 100.17; AO 2009-26 at 7.

<sup>37</sup> See 52 U.S.C. § 30101(22); 11 C.F.R. § 100.26 ("public communication" includes newspapers, magazines, and mass mailings).

<sup>38</sup> See 52 U.S.C. § 30125(e)(1)(A).

100747436976  
6460054742001

1 Federal candidate by name and photograph does not PASO that candidate.<sup>39</sup> The journal ads do  
2 not otherwise promote, attack, support, or oppose any candidate. Thus, the journal ads do not  
3 appear to be in connection with a federal election and did not have to be paid for with federally  
4 permissible funds.<sup>40</sup> Therefore, the Commission finds no reason to believe that Zeldin or the  
5 State Committee violated section 30125(e) by spending nonfederal funds on journal ads.

6 Finally, the Complaint alleges that the State Committee's federal expenditures require  
7 that it register and report as a federal political committee.<sup>41</sup> This allegation appears to  
8 correspond to the State Committee's purchase of journal ads. Based on the analysis above, the  
9 Commission finds no reason to believe that the State Committee violated 52 U.S.C. §§ 30103  
10 and 30104 by failing to register and report as a federal political committee.

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<sup>39</sup> See AO 2009-26 at 7.

<sup>40</sup> Contrary to the Response's assertion and as noted previously, the exception at section 30125(f)(2) does not apply to Zeldin because he was not a state candidate. See AO 2007-1 at 5.

<sup>41</sup> See Compl. at 5.



1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.



1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 In contrast, Suffolk Conservative Chairman's Club ("SCCC") denies that such indirect  
4 transfers occurred, and a review of the available information reveals that most of the alleged  
5 reciprocal contributions do not match up closely in amounts or time.<sup>11</sup> For example, in the first  
6 transaction identified in the Complaint, the State Committee contributed \$500 to the Committee  
7 to Elect a Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000  
8 to the Federal Committee on March 20, 2014, about five months later.<sup>12</sup> Similarly, the second  
9 such identified transaction involves a \$100 transfer from the State Committee to the Smithtown  
10 Women's Republican Club in early December 2013 and a \$500 contribution from that group to  
11 the Federal Committee over seven months later.<sup>13</sup> The closest alleged reciprocal contribution  
12 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,  
13 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC  
14 contributed the same amount to the Federal Committee.

15 SCCC, for its part, received the following contributions from the State Committee:

- 16 • October 21, 2013 -- \$1,000
- 17 • December 9, 2013 -- \$1,000
- 18 • October 28, 2014 -- \$1,000

<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*

1 SCCC made a \$1,000 contribution to the Federal Committee on June 18, 2014. SCCC asserts  
2 that it was not directed to contribute to the Federal Committee and that it did not serve as an  
3 intermediary between the State and Federal Committees.

4 Thus, although the State Committee donated funds to state and local political  
5 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus  
6 between the transactions to conclude that the State Committee was impermissibly funneling its  
7 funds to the Federal Committee.

8 Thus, there is no reason to believe that Suffolk Conservative Chairman's Club violated  
9 the Act.

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5  
6 **RESPONDENT:** Islip Town Conservative Executive Committee

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 Islip Town Conservative Executive Committee.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 In contrast, Islip Town Conservative Executive Committee ("ITCEC") denies that such  
4 indirect transfers occurred, and a review of the available information reveals that most of the  
5 alleged reciprocal contributions do not match up closely in amounts or time.<sup>11</sup> For example, in  
6 the first transaction identified in the Complaint, the State Committee contributed \$500 to the  
7 Committee to Elect a Republican Majority ("CERM") on October 25, 2013, and CERM  
8 contributed \$1,000 to the Federal Committee on March 20, 2014, about five months later.<sup>12</sup>  
9 Similarly, the second such identified transaction involves a \$100 transfer from the State  
10 Committee to the Smithtown Women's Republican Club in early December 2013 and a \$500  
11 contribution from that group to the Federal Committee over seven months later.<sup>13</sup> The closest  
12 alleged reciprocal contribution appears to involve ITCEC. On January 25, 2014, the State  
13 Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC contributed the same  
14 amount to the Federal Committee. ITCEC's treasurer, however, denied in a sworn affidavit that  
15 the committee served as an intermediary between the State and Federal committees.

16 Thus, although the State Committee donated funds to state and local political  
17 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus  
18 between the transactions to conclude that the State Committee was impermissibly funneling its  
19 funds to the Federal Committee.

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<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*

- 1           Thus, there is no reason to believe that Islip Town Conservative Executive Committee
- 2   violated the Act.

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1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5  
6 **RESPONDENT:** Friends of Senft

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 Friends of Senft.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.



1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 In contrast, Friends of Senft denies that such indirect transfers occurred, and a review of  
4 the available information reveals that most of the alleged reciprocal contributions do not match  
5 up closely in amounts or time.<sup>11</sup> For example, in the first transaction identified in the Complaint,  
6 the State Committee contributed \$500 to the Committee to Elect a Republican Majority  
7 ("CERM") on October 25, 2013, and CERM contributed \$1,000 to the Federal Committee on  
8 March 20, 2014, about five months later.<sup>12</sup> Similarly, the second such identified transaction  
9 involves a \$100 transfer from the State Committee to the Smithtown Women's Republican Club  
10 in early December 2013 and a \$500 contribution from that group to the Federal Committee over  
11 seven months later.<sup>13</sup> The closest alleged reciprocal contribution appears to involve Islip Town  
12 Conservative Executive Committee ("ITCEC"). On January 25, 2014, the State Committee  
13 contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC contributed the same amount to  
14 the Federal Committee.

15 Friends of Senft, for its part, received a \$5,000 contribution from the State Committee on  
16 March 31, 2014, and made a \$1,000 contribution to the Federal Committee on April 1, 2014.  
17 Friends of Senft asserts that it was not directed to make a contribution to the Federal Committee  
18 and that it did not serve as an intermediary between the State and Federal Committees. It also

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<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*

1 argues that another Senft committee made the contribution to the Federal Committee than the  
2 one receiving the contribution from the State Committee.

3 Thus, although the State Committee donated funds to state and local political  
4 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus  
5 between the transactions to conclude that the State Committee was impermissibly funneling its  
6 funds to the Federal Committee.

7 Thus, there is no reason to believe that Friends of Senft violated the Act.

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5  
6 **RESPONDENT:** Smithtown Women's Republican Club

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 Smithtown Women's Republic Club.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

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<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
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3 New York law, state officeholders who wish to terminate their committees may spend down their  
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11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

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<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 A review of the available information reveals that most of the alleged reciprocal  
4 contributions do not match up closely in amounts or time.<sup>11</sup> For example, in the first transaction  
5 identified in the Complaint, the State Committee contributed \$500 to the Committee to Elect a  
6 Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000 to the  
7 Federal Committee on March 20, 2014, about five months later.<sup>12</sup> The closest alleged reciprocal  
8 contribution appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On  
9 January 25, 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014,  
10 ITCEC contributed the same amount to the Federal Committee.

11 The Smithtown Women's Republican Club ("SWRC"), for its part, received a \$100  
12 contribution from the State Committee on December 2, 2013, and made a \$500 contribution to  
13 the Federal Committee on July 23, 2014, over seven months later.<sup>13</sup>

14 Thus, although the State Committee donated funds to state and local political  
15 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus  
16 between the transactions to conclude that the State Committee was impermissibly funneling its  
17 funds to the Federal Committee.

18 Thus, there is no reason to believe that Smithtown Women's Republican Club violated  
19 the Act.

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<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> See *id.*

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5  
6 **RESPONDENT:** Committee to Elect a Republican Majority

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 Committee to Elect a Republican Majority.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 In contrast, the Committee to Elect a Republican Majority ("CERM") denies that such  
4 indirect transfers occurred, and a review of the available information reveals that most of the  
5 alleged reciprocal contributions do not match up closely in amounts or time.<sup>11</sup> For example, in  
6 the first transaction identified in the Complaint, CERM received \$500 from the State Committee  
7 on October 25, 2013, and CERM contributed \$1,000 to the Federal Committee on March 20,  
8 2014, about five months later. CERM, which adopted another Respondent's response, asserts  
9 that it received no instruction from the State Committee to make a contribution to the Federal  
10 Committee.<sup>12</sup> Similarly, the second such identified transaction involves a \$100 transfer from the  
11 State Committee to the Smithtown Women's Republican Club in early December 2013 and a  
12 \$500 contribution from that group to the Federal Committee over seven months later.<sup>13</sup> The  
13 closest alleged reciprocal contribution appears to involve Islip Town Conservative Executive  
14 Committee ("ITCEC"). On January 25, 2014, the State Committee contributed \$1,000 to  
15 ITCEC, and on March 19, 2014, ITCEC contributed the same amount to the Federal Committee.

16 Thus, although the State Committee donated funds to state and local political  
17 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus  
18 between the transactions to conclude that the State Committee was impermissibly funneling its  
19 funds to the Federal Committee.

<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*



- 2     violated the Act.

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT:** Riverhead Republican Committee

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 Riverhead Republican Committee.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 In contrast, Riverhead Republican Committee ("RRC") denies that such indirect transfers  
4 occurred, and a review of the available information reveals that most of the alleged reciprocal  
5 contributions do not match up closely in amounts or time.<sup>11</sup> For example, in the first transaction  
6 identified in the Complaint, the State Committee contributed \$500 to the Committee to Elect a  
7 Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000 to the  
8 Federal Committee on March 20, 2014, about five months later.<sup>12</sup> Similarly, the second such  
9 identified transaction involves a \$100 transfer from the State Committee to the Smithtown  
10 Women's Republican Club in early December 2013 and a \$500 contribution from that group to  
11 the Federal Committee over seven months later.<sup>13</sup> The closest alleged reciprocal contribution  
12 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,  
13 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC  
14 contributed the same amount to the Federal Committee.

15 RRC, for its part, received a \$1,500 contribution from the State Committee on January  
16 11, 2015, and made a \$1,000 contribution to the Federal Committee on October 6, 2014. RRC,  
17 which adopted another Respondent's response, asserts that it received no instruction from the  
18 State Committee to make a contribution to the Federal Committee.

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<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*

5        Thus, there is no reason to believe that Riverhead Republican Committee violated the  
6    Act.

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT:** Queens County Conservative Party

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Queens County Conservative Party.

**II. FACTUAL AND LEGAL ANALYSIS**

In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7, 2013, Zeldin announced that he would seek the U.S. House seat in New York's First Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on October 21, 2013.

The State Committee remained active while Zeldin completed his state senate term and campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive contributions that would be impermissible under the Act; for example, a corporation can contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 A review of the available information, however, reveals that most of the alleged  
4 reciprocal contributions do not match up closely in amounts or time. For example, in the first  
5 transaction identified in the Complaint, the State Committee contributed \$500 to the Committee  
6 to Elect a Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000  
7 to the Federal Committee on March 20, 2014, about five months later.<sup>11</sup> Similarly, the second  
8 such identified transaction involves a \$100 transfer from the State Committee to the Smithtown  
9 Women's Republican Club in early December 2013 and a \$500 contribution from that group to  
10 the Federal Committee over seven months later.<sup>12</sup> The closest alleged reciprocal contribution  
11 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,  
12 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC  
13 contributed the same amount to the Federal Committee.

14 Here, while Queens County Conservative Party made a \$350 contribution to the Federal  
15 Committee on August 13, 2014, it denies having received a contribution from the State  
16 Committee.<sup>13</sup> A review of publicly available information confirms its assertion.

17 Thus, there is no reason to believe that Queens County Conservative Party violated the  
18 Act.

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<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> See Compl. at 6.

<sup>12</sup> *Id.*

<sup>13</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.



1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5  
6 **RESPONDENT:** New York Republican State Committee

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 New York Republican State Committee.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELBC. LAW § 14-116(2) (McKinney 2016).

11       The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

**B Compl. at 3.**

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3       A review of the available information, however, reveals that most of the alleged  
4 reciprocal contributions do not match up closely in amounts or time. For example, in the first  
5 transaction identified in the Complaint, the State Committee contributed \$500 to the Committee  
6 to Elect a Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000  
7 to the Federal Committee on March 20, 2014, about five months later.<sup>11</sup> Similarly, the second  
8 such identified transaction involves a \$100 transfer from the State Committee to the Smithtown  
9 Women's Republican Club in early December 2013 and a \$500 contribution from that group to  
10 the Federal Committee over seven months later.<sup>12</sup> The closest alleged reciprocal contribution  
11 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,  
12 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC  
13 contributed the same amount to the Federal Committee.

14       Here, while New York Republican State Committee made contributions to the Federal  
15 Committee — \$3,956 on February 21, 2014, and \$5,000 on June 17, 2014 — it denies having  
16 received a contribution from the State Committee.<sup>13</sup> A review of publicly available information  
17 confirms its assertion.

18       Thus, there is no reason to believe that New York Republican State Committee violated  
19 the Act.

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<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> See Compl. at 6.

<sup>12</sup> *Id.*

<sup>13</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5  
6 **RESPONDENT:** New York State Conservative Party

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 New York State Conservative Party.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 In contrast, New York State Conservative Party ("NYSCP") denies that such indirect  
4 transfers occurred, and a review of the available information reveals that most of the alleged  
5 reciprocal contributions do not match up closely in amounts or time.<sup>11</sup> For example, in the first  
6 transaction identified in the Complaint, the State Committee contributed \$500 to the Committee  
7 to Elect a Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000  
8 to the Federal Committee on March 20, 2014, about five months later.<sup>12</sup> Similarly, the second  
9 such identified transaction involves a \$100 transfer from the State Committee to the Smithtown  
10 Women's Republican Club in early December 2013 and a \$500 contribution from that group to  
11 the Federal Committee over seven months later.<sup>13</sup> The closest alleged reciprocal contribution  
12 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,  
13 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC  
14 contributed the same amount to the Federal Committee.

15 NYSCP, for its part, received the following contributions from the State Committee:

- 16 • January 23, 2014 -- \$1,000
- 17 • March 21, 2014 -- \$1,000

18 NYSCP made the following contributions to the Federal Committee:

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<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*

1       • March 14, 2014 -- \$500

2       • August 13, 2014 -- \$250

3           NYSCP asserts that each check it received from the State Committee had a specific  
4   purpose, *e.g.*, membership renewal, annual state dinner. It also asserts that the checks it gave to  
5   the Federal Committee were for campaign events.

6           Thus, although the State Committee donated funds to state and local political  
7   organizations that contributed to the Federal Committee, there is not a sufficient factual nexus  
8   between the transactions to conclude that the State Committee was impermissibly funneling its  
9   funds to the Federal Committee.

10          Thus, there is no reason to believe that New York State Conservative Party violated the  
11   Act.

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3  
4  
5  
6 **RESPONDENT:** Babylon Conservative Committee

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 Babylon Conservative Committee.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).



1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 A review of the available information reveals that most of the alleged reciprocal  
4 contributions do not match up closely in amounts or time.<sup>11</sup> For example, in the first transaction  
5 identified in the Complaint, the State Committee contributed \$500 to the Committee to Elect a  
6 Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000 to the  
7 Federal Committee on March 20, 2014, about five months later.<sup>12</sup> Similarly, the second such  
8 identified transaction involves a \$100 transfer from the State Committee to the Smithtown  
9 Women's Republican Club in early December 2013 and a \$500 contribution from that group to  
10 the Federal Committee over seven months later.<sup>13</sup> The closest alleged reciprocal contribution  
11 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,  
12 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC  
13 contributed the same amount to the Federal Committee.

14 Babylon Conservative Committee, for its part, received \$75 from the State Committee on  
15 August 22, 2014, and made a \$100 contribution to the Federal Committee on December 11,  
16 2013.

17 Thus, although the State Committee donated funds to state and local political  
18 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus

<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*

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3        Thus, there is no reason to believe that Babylon Conservative Committee violated the  
4    Act.

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5  
6 **RESPONDENT:** Smithtown Republican Victory Fund

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 Smithtown Republican Victory Fund.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>

8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

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<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 A review of the available information reveals that most of the alleged reciprocal  
4 contributions do not match up closely in amounts or time.<sup>11</sup> For example, in the first transaction  
5 identified in the Complaint, the State Committee contributed \$500 to the Committee to Elect a  
6 Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000 to the  
7 Federal Committee on March 20, 2014, about five months later.<sup>12</sup> Similarly, the second such  
8 identified transaction involves a \$100 transfer from the State Committee to the Smithtown  
9 Women's Republican Club in early December 2013 and a \$500 contribution from that group to  
10 the Federal Committee over seven months later.<sup>13</sup> The closest alleged reciprocal contribution  
11 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,  
12 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC  
13 contributed the same amount to the Federal Committee.

14 For its part, Smithtown Republican Victory Fund ("SRVF") received the following  
15 donations from the State Committee:

- 16 • January 16, 2014 -- \$1,500.
- 17 • January 25, 2014 -- \$1,000
- 18 • April 16, 2014 -- \$500

<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*

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9           Thus, there is no reason to believe that Smithtown Republican Victory Fund violated the  
10   Act.

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5  
6 **RESPONDENT:** Smithtown Conservatives for Victory

7  
8 **I. INTRODUCTION**

9  
10 This matter was generated by a complaint filed with the Federal Election Commission  
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by  
12 Smithtown Conservatives for Victory.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,  
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First  
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and  
19 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
20 contributions that would be impermissible under the Act; for example, a corporation can  
21 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).



1 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
2 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
3 New York law, state officeholders who wish to terminate their committees may spend down their  
4 accounts through donations to other political committees.<sup>6</sup>

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
6 when the State Committee made a contribution to a state or local political organization that was  
7 preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>  
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
10 Committee.<sup>8</sup>

11 The Commission has considered arrangements to transfer a state committee's funds into a  
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted  
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling  
14 state funds into his federal account.<sup>9</sup> Similarly, in an advisory opinion, the Commission found

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

<sup>7</sup> See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup> Compl. at 3.

<sup>9</sup> Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>10</sup>

3 A review of the available information reveals that most of the alleged reciprocal  
4 contributions do not match up closely in amounts or time.<sup>11</sup> For example, in the first transaction  
5 identified in the Complaint, the State Committee contributed \$500 to the Committee to Elect a  
6 Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000 to the  
7 Federal Committee on March 20, 2014, about five months later.<sup>12</sup> Similarly, the second such  
8 identified transaction involves a \$100 transfer from the State Committee to the Smithtown  
9 Women's Republican Club in early December 2013 and a \$500 contribution from that group to  
10 the Federal Committee over seven months later.<sup>13</sup> The closest alleged reciprocal contribution  
11 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,  
12 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC  
13 contributed the same amount to the Federal Committee.

14 Smithtown Conservatives for Victory, for its part, received a \$1,000 contribution from  
15 the State Committee on January 25, 2014, and made a \$995 contribution to the Federal  
16 Committee on November 2, 2014.

17 Thus, although the State Committee donated funds to state and local political  
18 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus

<sup>10</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>11</sup> In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

<sup>12</sup> See Compl. at 6.

<sup>13</sup> *Id.*

1 between the transactions to conclude that the State Committee was impermissibly funneling its  
2 funds to the Federal Committee.

3 Thus, there is no reason to believe that Smithtown Conservatives for Victory violated the  
4 Act.

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Zeldin for Congress and Nancy Marks in her official capacity as treasurer **MUR 6985**

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Zeldin for Congress and Nancy Marks in her official capacity as treasurer.

**II. FACTS**

This matter relates to U.S. Representative Lee Zeldin, a former New York state senator, and transactions involving his federal and state political committees after Zeldin announced his federal candidacy in October 2013. The Complaint alleges that Zeldin for Senate ("State Committee") raised and spent funds outside of the limits and source prohibitions of the Federal Election Campaign Act of 1971, as amended (the "Act"), including improper transfers to Zeldin for Congress ("Federal Committee") via reciprocal contributions from state and local political committees and candidates, and coordinated advertisements. The Complaint also alleges that the Federal Committee accepted illegal contributions from the State Committee's transfer of nonfederal funds, and that the Federal Committee failed to report those contributions. Finally, the Complaint alleges that the State Committee may have failed to register and report with the Commission as a federal political committee based on its spending and other activities. In a joint response, Lee Zeldin, the State Committee, and the Federal Committee ("Zeldin Response") deny that they improperly caused State Committee funds to be transferred to the Federal Committee or coordinated the ads.

In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7, 2013, Zeldin announced that he would seek the U.S. House seat in New York's First

1 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on  
2 October 21, 2013, and the Federal Committee's Statement of Organization on November 26,  
3 2013.

4 The State Committee remained active while Zeldin completed his state senate term and  
5 campaigned for the U.S. House.<sup>1</sup> New York State allows state candidates to receive  
6 contributions that would be impermissible under the Act; for example, a corporation can  
7 contribute \$5,000 to a candidate per year.<sup>2</sup> During the 2012 and 2014 election cycles, the  
8 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300  
9 for the general election.<sup>3</sup> Zeldin's State Committee accepted such contributions.<sup>4</sup> In addition,  
10 political committees in New York cannot terminate if funds remain in their accounts.<sup>5</sup> Under  
11 New York law, state officeholders who wish to terminate their committees may spend down their  
12 accounts through donations to other political committees.<sup>6</sup>

<sup>1</sup> The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website ([http://www.elections.ny.gov:8080/plsql\\_browser/getfiler2\\_loaddates](http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates)). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

<sup>2</sup> See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

<sup>3</sup> See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

<sup>4</sup> See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

<sup>5</sup> See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

<sup>6</sup> See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

1     **III.   LEGAL ANALYSIS**

2  
3           **A.     There is no Reason to Believe Respondents Illegally Transferred Funds to the**  
4           **Federal Committee Through Reciprocal Contributions**

5  
6           The Complaint identifies a dozen instances after Zeldin announced his federal candidacy  
7           when the State Committee made a contribution to a state or local political organization that was  
8           preceded or followed by a contribution to the Federal Committee by that same organization.<sup>7</sup>

9           The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal  
10          contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal  
11          Committee.<sup>8</sup>

12          The Zeldin Respondents argue that none of the State Committee contributions were  
13          earmarked or contained any “designations, instructions and encumbrances,” and that the State  
14          Committee made no other express or implied instruction to the recipient committees.<sup>9</sup>

15          The Commission has considered arrangements to transfer a state committee’s funds into a  
16          federal committee’s account through intermediaries. In MUR 5278, candidate Gingrey admitted  
17          in a state proceeding to having arranged “reciprocal contributions” for the purpose of funneling  
18          state funds into his federal account.<sup>10</sup> Similarly, in an advisory opinion, the Commission found

<sup>7</sup>       See Compl. at 6-7 and Attachs. A, B.

<sup>8</sup>       Compl. at 3.

<sup>9</sup>       Zeldin Resp. at 5.

<sup>10</sup>      Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. *See id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the  
2 requestor's federal committee.<sup>11</sup>

3 In contrast, the Zeldin Respondents deny that such indirect transfers occurred, and a  
4 review of the available information reveals that most of the alleged reciprocal contributions do  
5 not match up closely in amounts or time.<sup>12</sup> For example, in the first transaction identified in the  
6 Complaint, the State Committee contributed \$500 to the Committee to Elect a Republican  
7 Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000 to the Federal  
8 Committee on March 20, 2014, about five months later.<sup>13</sup> Similarly, the second such identified  
9 transaction involves a \$100 transfer from the State Committee to the Smithtown Women's  
10 Republican Club in early December 2013 and a \$500 contribution from that group to the Federal  
11 Committee over seven months later.<sup>14</sup> Further, the Federal Committee, in response to requests  
12 sent by the Reports Analysis Division regarding contributions from unregistered organizations,  
13 including state and local political committees, has responded that the contributions were made  
14 using permissible funds.<sup>15</sup>

15 Thus, although the State Committee donated funds to state and local political  
16 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus  
17 between the transactions to conclude that the State Committee was impermissibly funneling its

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<sup>11</sup> Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

<sup>12</sup> In fact, two respondents stated they received no donations from the State Committee.

<sup>13</sup> See Compl. at 6.

<sup>14</sup> *Id.*

<sup>15</sup> In the current cycle, RAD has sent the Federal Committee only one RFAI regarding two \$1,000 contributions from unregistered entities. The Federal Committee responded that those contributions came from permissible funds. See Zeldin for Congress 2016 Pre-Primary (amended) (Aug. 30, 2016).

1 funds to the Federal Committee. Thus, the Commission finds no reason to believe the Federal  
2 Committee accepted and failed to report the receipt of prohibited funds through indirect transfers  
3 from the State Committee.

4 **B. Journal Advertisements**

5 The Complaint alleges that the State Committee paid \$3,765 for “journal” advertisements  
6 featuring Zeldin from January through October 2014 that constitute coordinated communications  
7 and prohibited in-kind transfers to the Federal Committee.<sup>16</sup>

8 The Zeldin Respondents state that the ads at issue are sponsored pages in booklets and  
9 journals printed by various local civic, religious, and charitable organizations that typically honor  
10 individuals or groups for their achievements.<sup>17</sup> They assert that the ads were placed solely in  
11 Zeldin’s capacity as state senator and contain no electoral advocacy, and they deny that the ads  
12 constitute coordinated communications.<sup>18</sup> The Zeldin Respondents supplied examples of such  
13 ads; they contain a headline reading “Senator Lee M. Zeldin,” Zeldin’s photograph, his  
14 congratulations or “best wishes,” and his contact information. They make no reference to  
15 Zeldin’s status as a federal candidate and do not describe him in any manner.<sup>19</sup> One of the ads is  
16 reproduced below.

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<sup>16</sup> Compl. at 2-4.

<sup>17</sup> Zeldin Resp. at 2.

<sup>18</sup> *Id.*

<sup>19</sup> *See id.* at 7-11.



## Senator Lee M. Zeldin



**Congratulations to the  
James V. Kavanaugh Columbiettes  
and**

**Honorees**

**Rose Marie Oliveri, Barabara Kruk, Bill  
Guiducci, and Lynda Zachon**

**~ Senator Lee Zeldin**

**Third Senate District  
District Office:  
4155 Veterans Memorial Hwy.  
Suite 5  
Ronkonkoma, NY 11779  
(631) 585-0608**

**Email: [Zeldin@nysenate.gov](mailto:Zeldin@nysenate.gov)  
Website: [www.zeldin.nysenate.gov](http://www.zeldin.nysenate.gov)**

- 1
- 2 Under Commission regulations, a communication is coordinated with a candidate, an
- 3 authorized committee, or agent thereof if it meets a three-pronged test: (1) payment for the

1 communication by a third party; (2) satisfaction of one of the “content” standards;<sup>20</sup> and (3)  
2 satisfaction of one of the “conduct” standards.<sup>21</sup>

3       The ads here do not appear to be coordinated communications because they do not satisfy  
4 the payment prong. The Commission has determined that an advertisement paid for by a federal  
5 candidate’s state committee does not constitute payment by a third party.<sup>22</sup> Therefore, the  
6 Commission finds no reason to believe that the Zeldin for Congress violated the Act by  
7 accepting and failing to report prohibited contributions in the form of coordinated  
8 communications.

<sup>20</sup> 11 C.F.R. § 109.21(c)(1)-(5).

<sup>21</sup> 11 C.F.R. § 109.21(d)(1)-(6).

<sup>22</sup> See AO 2009-26 at 10; AO 2007-01 at 5; F&LA, MUR 6601 (Oelrich for Congress) at 9 n.10.